



09/267,025

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

) AFFIDAVIT  
)

I, Linda M. Icard, being duly sworn, hereby testify as follows:

1. I am an individual resident of Mecklenburg County, North Carolina, and President of Visual Technologies, Inc., a North Carolina corporation incorporated in 1990 with its principal office and place of business at 10920 Southern Loop Boulevard, Pineville, North Carolina 28134. I am over the age of 18, under no disability or infirmity, and believe in the obligations of an oath. I have personal knowledge of the events set forth herein.

2. Visual Technologies, Inc. is in the screenprinting business. I personally have significant background and experience in the screenprinting business, screenprinting techniques and pressure-sensitive materials based upon my prior employment from 1979-1990 with Avery International Corp. (now Avery Dennison Mfg. Co.), a world leader in pressure-sensitive printing and other materials for the graphics industry, during which time I became the head of an Avery commercial business unit for the Specialty Film Division and was responsible for new product development. The majority of the work undertaken by Visual Technologies, Inc. has been under license to Contra Vision North America, Inc., Atlanta, Georgia, for patented one-way, see-through graphics products. These were initially manufactured by means of patented printing processes onto non-perforated clear plastic substrates, typically clear self-adhesive polyester, such products known by the trademark Contra Vision®.

3. One of the methods of imaging Contra Vision unperforated products was by means of the 3M Scotchprint™ electrostatic transfer process. For this method of imaging, Visual Technologies, Inc. collaborated with companies utilizing the 3M Scotchprint™ process, including Supergraphics, Inc., of Sunnyvale, California. Exhibit N is a reproduction of an article in the "San Francisco Examiner" of March 5, 1993, which illustrates one of six buses "wrapped" with a Crystal Pepsi advertisement, for which Visual Technologies, Inc. produced the one-way vision window panels in conjunction with Supergraphics, Inc. The process by which this is done involves secret know-how owned by Contra Vision Limited and sub-licensed by Visual Technologies, Inc. from Contra Vision North America, Inc. However, this 3M Scotchprint™ electrostatic transfer process involved us sending a specially engineered substrate called "Part Processed Material" to Supergraphics, Inc. for them to transfer the electrostatically printed image from a "carrier" or "transfer medium" onto the Contra Vision "Part Processed Material." This imaged Part Processed Material was then returned to Visual Technologies, Inc. for a finishing process before being shipped back to Supergraphics, Inc. for application onto the bus windows. My principle contact at Supergraphics, Inc. was one of the principals, Mr Brian LaBadie. At sometime in the spring or early summer of 1993, Brian LaBadie advised me that Supergraphics, Inc. was undertaking the 3M Scotchprint™ electrostatic transfer imaging of a perforated self-adhesive assembly and that a company called ImagoImage, Inc. of Walnut Creek, California, was involved in this method of producing one-way vision window graphics. He told me the names of the principals involved in this business, Mr Rodney Shields, Mr Gregory Ross and Mr Michael Luckman. I was surprised to find that Mr Michael Luckman was the same Michael Luckman that I knew well from earlier meetings in relation to the product Contra Vision®. Mr Luckman attended several meetings with me and other sub-licensees or distributors

of the product Contra Vision<sup>®</sup>, either at the premises of Contra Vision North America, Inc., Atlanta, Georgia, or at meetings arranged by Contra Vision North America, Inc. Mr Luckman had wanted at that time, 1990 and 1991, to be a distributor of Contra Vision products. I contacted Mr Luckman at ImagoImage, Inc. and he confirmed that he was a partner of ImagoImage, Inc., whose business concerned one-way vision perforated materials. Mr Luckman described the perforated self-adhesive vinyl materials to me and stated that they were typically imaged by airbrush painting or the 3M Scotchprint<sup>™</sup> electrostatic transfer process. I expressed an interest in the potential for screenprinting such products and becoming a licensee. I later signed a Confidential Non-disclosure Agreement with ImagoImage, Inc. on July 26, 1993, included herein as Exhibit K.

ImagoImage, Inc., represented itself to own the rights in at least one patent application relating to devices and methods for forming see-through images on perforated plastic sheeting whereby the images could be viewed from one side of the sheeting without impairing the ability to see through the sheeting from the other side. ImagoImage, Inc. was offering licenses under this patent application. ImagoImage, Inc. represented that its technology could be implemented by screenprinting.

Exhibit C includes extracts from Visual Technologies, Inc.'s production calendar completed by Mr Pat Henrietta, our Production Manager. The August 10, 1993, entry "STRIP SUPERGRAPHICS ELECTROSTATICS & SHIP NEXT DAY (SUNNYVALE)" referred to work we were undertaking at that time with Supergraphics, Inc. involving the 3M Scotchprint<sup>™</sup> electrostatic transfer imaging of Contra Vision unperforated one-way vision panels. I believe the

sole business of Supergraphics, Inc. is concerned with the 3M Scotchprint™ electrostatic transfer imaging process.

The entry "SVECIA-IMAGO SAMP'S" referred to testing on Visual Technologies, Inc.'s Svecia screenprinting machine, to establish if samples sent to me of ImagoImage™ perforated self-adhesive assemblies would "pull a vacuum" on the vacuum bed of our Svecia screenprinting press. These samples comprised a perforated self-adhesive assembly which was intended for exterior application to a window to provide a one-way graphic effect, comprising a sheet of perforated white vinyl, a perforated layer of gray pressure-sensitive adhesive and a perforated peel-off liner, all perforated together in exact registry. The samples had been imaged by the 3M Scotchprint™ process. We found that screenprinting of this type of perforated self-adhesive assembly would be totally unsatisfactory, owing to the sheets not being held down by the "vacuum bed" of the screenprinting press.

Specifically, Visual Technologies, Inc. utilizes conventional screenprinting equipment having a vacuum print table with a vacuum bed by which a substrate to be printed is held securely in a fixed disposition to resist movement during the printing process. This temporary restraint of the substrate is absolutely critical when printing complex images of multiple colors to insure precise registry of the various colors to be applied. Because of the array of perforations formed through the vinyl sheet, adhesive and liner over the entire surface area, the perforated assembly material could not be effectively held by vacuum against movement on such screenprinting equipment. In addition, the ink applied in the screenprinting process could be sucked through the perforations into the interior of the vacuum table. I developed ideas for overcoming this printing

problem and of producing an interior mount perforated self-adhesive assembly. I decided to seek a meeting with ImagoImage, Inc.

4. During August, 1993, my husband, Ben Icard, and I traveled to San Francisco, California, and met with representatives of ImagoImage, Inc., on or about August 14 and 15, 1993 (hereinafter referred to as the August 1993 meeting), to learn more about the license being offered by the company. Ben and I met for several hours with Greg Ross, Rodney Shields, and Michael Luckman, who represented themselves to be the stockholders and officers of ImagoImage, Inc. Messrs Ross, Shields and Luckman presented to us a sample of the perforated self-adhesive vinyl film assembly they represented had been produced according to the technology offered for licensing. The product comprised the same type of perforated self-adhesive assembly we had tested, comprising a sheet of white perforated vinyl, a perforated layer of gray pressure-sensitive adhesive and a perforated peel-off liner, all perforated together in exact registry. According to Messrs. Shields, Ross and Luckman, the exposed white face of the vinyl sheet had been overprinted by the electrostatic transfer process of the 3M Corporation known as the 3M Scotchprint™ process. Messrs. Shields, Ross and Luckman stated that this type of product was used by removing the peel-off liner and then adhering the gray exposed adhesive layer to the exterior surface of a window, such as a bus window. From the exterior of the bus the image printed on the outside face of the vinyl sheet is visible largely without any tendency to see through the perforations, but from the interior of the bus, the plain gray side allows relatively easy outward viewing through the perforations. They also stated that this type of perforated self-adhesive assembly had been imaged by painting.

5. I immediately informed them that it would be impractical if not impossible to image that type of perforated self-adhesive assembly using the screenprinting methods with which I am experienced and familiar, which require any substrate to be printed to be held down by a "vacuum bed." Also, based on my experience with one-way vision products, I informed Messrs Shields, Ross and Luckman that the concept of adhering the perforated material to the outside of a store window would be unacceptable to the vast majority of potential advertisers and other customers who insist on placing window advertising material on the inside surface of windows.

6. Messrs Shields, Ross and Luckman were visibly disturbed by these problems and indicated that they had not anticipated or recognized such problems nor did they have any ideas as to how to potentially overcome the problems. In response, I pointed out that by selecting and perforating a clear, transparent adhesive-backed vinyl sheet with a peel-off liner, the self-adhesive clear vinyl could be applied to the inside of a window and the applied design could be seen through the window, the clear adhesive and clear vinyl. The screenprinting problem could be easily overcome by applying a so-called "self-wound application or transfer tape," i.e., applying an imperforate self-adhesive tape to the perforated peel-off liner side of the perforated assembly. By placing this laminated material with the self-wound tape face-down on the vacuum print table of conventional screenprinting machinery, the exposed upper face of the clear, transparent perforated vinyl could then be reverse printed with the desired multi-color image and then overprinted with a solid white layer followed by a solid black layer. The resultant product could be adhered to the inside surface of a window so that the "right reading" image would be viewable from the exterior of the window, while only the black surface would be viewable from the interior of the window, allowing clear vision through the perforations. I

also stated that the same non-perforated self-wound tape could be applied to the exterior mount assembly to enable it to be screenprinted. Messrs. Shields, Ross and Luckman expressed a high level of excitement for these ideas and encouraged me to begin working on implementing the ideas immediately upon my return to North Carolina. A follow up communication from this meeting faxed by Gregory Ross of ImagoImage, Inc. on August 16 is attached as Exhibit L.

7. My husband, Ben Icard, operates a related company doing business as Clear Choice Marketing, Inc., based at the same address as Visual Technologies, Inc. The basic relationship between Visual Technologies, Inc. and Clear Choice Marketing, Inc. is that Visual Technologies, Inc. acts as a manufacturing entity, selling its product to Clear Choice Marketing, Inc. and Clear Choice Marketing, Inc. acts as a selling entity to sell the product to advertising agencies or end users. Following Ben's and my meeting with Messrs. Shields, Ross and Luckman, Clear Choice Marketing, Inc. entered a "Non-exclusive License Agreement" with ImagoImage, Inc. on September 16, 1993.

8. As soon as Ben and I returned to North Carolina from the August 1993 meeting, I began work on the production of perforated self-adhesive assemblies, including the ideas I had presented to Messrs. Shields, Ross and Luckman. Initially, I pursued methods of producing improvements upon the exterior mount perforated assembly provided to me by ImagoImage, Inc. From my work as a licensee of Contra Vision North America, Inc., both with Avery Dennison and Visual Technologies, Inc., under US Patent No. 4,673,609, I knew that black was a preferable color to gray to enable good through vision from the inside of a window. I sourced a number of self-adhesive assemblies, including a white vinyl with black self-adhesive assembly

from Avery Dennison Mfg. Co. and a self-adhesive assembly with a facestock of white vinyl laminated to black vinyl, sourced from FLEXcon, Inc., Spencer, MA. Other self-adhesive assemblies were sourced from General Formulations, and Duramark. Also, I sourced a clear, transparent self-adhesive assembly and a clear static cling film from FLEXcon, Inc. Perforation of the self-adhesive and static cling assemblies was initially undertaken by a company trading as ARCOR, from Elmhurst, Illinois. Later we used a company called Southern Prestige, Inc. of Statesville, NC. Attached in Exhibit A are documents relating to this initial production. This production was successful, and we began supplying Clear Choice Marketing, Inc., in August, 1993, perforated white-on-black self-adhesive assemblies for bus advertising. My husband, Ben Icard, had had wide experience of selling the Contra Vision<sup>®</sup> non-perforated product into this bus advertising market. He had many existing and potential customers and he was immediately successful in selling the exterior mount, perforated, white-on-black self-adhesive assemblies. These were for application to the outside of bus windows after they had been imaged with advertisements, typically by airbrush spray paint or 3M Scotchprint<sup>™</sup> electrostatic transfer imaging. In selling these products, he used sell sheets, photographs, copies of newspaper articles and the 3M Scotchprint<sup>™</sup> electrostatic transfer samples all provided by ImagoImage, Inc. for this purpose and, later, samples produced by Visual Technologies, Inc. The documents in Exhibit B are some of the records I have located recording sales of such materials, which include the white vinyl and black adhesive material from Avery Dennison Mfg. Co. and the white vinyl laminated to black vinyl material from FLEXcon, Inc. These assemblies, produced in August and September 1993, of white-on-black perforated self-adhesive vinyl assemblies for exterior mount on windows, comprised:



from FLEXcon material perforated to comprise:

- (i) a perforated facestock comprising:
  - (a) a white vinyl layer, laminated to
  - (b) a black vinyl layer
- (ii) a perforated clear pressure-sensitive adhesive
- (iii) a perforated protective liner removable from the adhesive

from Avery Dennison self-adhesive vinyl base material perforated to comprise:

- (i) a perforated facestock material comprising a white vinyl layer
- (ii) a perforated black pressure-sensitive adhesive
- (iii) a perforated protective liner removable from the adhesive

These products were typically used for bus advertising. A design was typically applied by sprayed paint or ink on site. Then the perforated liner was removed and the remainder of the assembly was applied to the outside of the bus window.

The attached sample of Exhibit M is not prior art but material is a similar type of perforated self-adhesive assembly to that used for the "Airport Cruiser Bus" project at the beginning of October, 1993 referred to in the Declaration of Abigail Parker, dated July 17, 1999. I also supplied the white-on-black assemblies to Clear Choice Marketing, Inc. or the orders in Exhibit B for the Las Vegas Hilton (Day Graphics), David Taylor, TANK Transit Authority, Phoenix Transit, Von Art, WTVD, Graphics International, Tulsa Transit (Market Media), Airport Cruiser and The

Sterret Tucker Agency, all shipped before the end of September 1993. Because of the urgent nature of this type of bus advertising project and based on the evidence in Exhibit B, I believe that all these products were imaged and applied to bus windows before October 18, 1993.

9. In parallel, I was developing the production of both clear and white-on-black perforated assemblies that could be screenprinted, incorporating my idea of a non-perforated backing layer in the form of a self-wound transfer tape applied to the perforated liner of the perforated self-adhesive assemblies. The non-perforated self-wound transfer tape was applied to the perforated liner of these assemblies by Piedmont Plastics, Inc., of Charlotte, NC. The production calendar entries in Exhibit C of August 25 include "PRODUCT DEVELOPMENT - IMAGO" and August 26 "FINISH IMAGO PRODUCT DEVELOPMENT." This indicates that our production development of the ImagoImage™ perforated self-adhesive vinyl assemblies and the method of screenprinting them had been finalized by August 26. This included the ability to print onto the perforated materials with inks that would not go into the perforation holes but would only be applied to the intended surface, so that no ghosted image could be seen from the other side of the one-way advertisements. Samples imaged in this development process and on other dates were used to promote the imaged perforated self-adhesive assemblies. The exterior mount, perforated white-on-black vinyl self-adhesive assembly for screenprinting, having the non-perforated self-wound application tape applied to the perforated liner, was used to screenprint a number of images including one for the "Raiders," as evidenced by our production calendar of September 29, 1993, in Exhibit C. Another such product was for the Charlotte "Hornets." My fax of September 29, 1993, to the perforators, Arcor, was a "Product Development Overview," and is included in Exhibit A.

We produced our first reasonably large scale production run of the clear, transparent vinyl assembly for one of our largest customers, Glover Advertising, Inc., located in Secaucus, New Jersey, which was then performing advertising work on behalf of R J Reynolds Tobacco. This was an advertisement with an "Old Joe" image of the "Joe Camel" Camel cigarettes character of R J Reynolds. I engaged Arcor to perforate the clear, transparent vinyl self-adhesive material supplied by FLEXcon, Inc. I engaged Piedmont Plastics, Inc. to supply and laminate the non-perforated self-wound transfer tape to the perforated liner. Attached in Exhibit A is a copy of Visual Technologies, Inc.'s Purchase Order of August 31, 1993, to Piedmont Plastics, Inc. to "LAMINATE TRANSFER TAPE/SHEET/CUT SQUARE" rolls of the perforated clear, transparent vinyl self-adhesive assembly into sheets, to be delivered to Visual Technologies, Inc. by September 13, 1993. This delivery date was later amended to September 20, 1993 (in handwriting). The term "transfer tape" on this purchase order is interchangeable with the terms "self-wound tape" and "application tape," all referring to a pressure-sensitive adhesive coated material typically having no removable liner attached to the pressure-sensitive adhesive. One use for this type of material is to enable the application of and transfer of diecut self-adhesive sign characters from a release liner onto a window or other surface. By applying the self-adhesive tape to the exposed side of the diecut characters and then, by removing the release liner, the adhesive side of diecut characters can be applied to a window or other surface. The self-adhesive transfer or application tape is then removed, to leave the diecut characters in the desired spacing on the window or other surface. Such self-wound transfer tape or application tape is designed to be removable from the diecut characters or other surfaces to which it is applied. It was also therefore removable from the perforated liner of any of the perforated self-

adhesive assemblies we produced. Attached in Exhibit C is the September 8, 1993, page from the Visual Technologies, Inc. production calendar, recording, among other things:

The reference to "IMAGO" means the ImagoImage™ perforated clear, transparent self-adhesive vinyl material. "CLEAR MATERIAL COMING → 3) TYPE II MAT" relates to the delivery date of the clear, transparent perforated vinyl by September 20 (see also the purchase order to Piedmont Plastics, Inc. of August 31, 1993, in Exhibit A). Type II material is the term we use for interior mount rather than exterior amount advertisements. The reference to "OLD JOE" refer to the printing of the Joe Camel image known as "Old Joe." Also, the September 8 entry "CVNA ORDER – PUT 6 SHTS IMAGO IN W/" showed we printed 6 sheets of a perforated self-adhesive vinyl assembly with a design we had been printing on the Contra Vision® non-perforated material. This is an example of our production of samples to promote the ImagoImage™ products.

Inc. and without generation of an invoice. Approximately twenty (20) of the "Old Joe" products were forwarded to Chris Becker at Glover Advertising, Inc. Head Office in Secausus, NJ, before the end of September, 1999, thus placing them on sale to Glover, for Glover to place them on sale to others, as Glover saw fit. No stipulations or conditions were placed on Glover Advertising, Inc.'s use or distribution of the samples and, in particular, no confidentiality agreement or understanding was reached or imposed with Glover Advertising, Inc. Some of the "Old Joe" products were later returned to me and I sent one of these to Roland Hill of Contra Vision Ltd in the UK. An offcut from one of these "Old Joe" products which was printed and shipped to Glover Advertising, Inc. in September, 1993, and subsequently returned to me by Glover, is attached as Exhibit D. Another offcut from this same "Old Joe" product has been provided to my husband, Ben Icard, to incorporate in an affidavit that he is preparing. Yet another offcut from the same "Old Joe" product, I have sent to Jack Barufka of Pillsbury Madison Sutro. I have retained the remainder of the same "Old Joe" product.

All the "Old Joe" products produced in August and September 1993 comprise:

a one-way vision display panel assembly specially constructed for application on to a window of a building or vehicle comprising:

- a) a perforated panel assembly including:
  - (i) a perforated transparent, clear vinyl flexible plastic sheet material having two principle surfaces which may be regarded as a front surface and a rear surface
  - (ii) a perforated protective liner attached to:

- (iii) a pressure-sensitive adhering means in the form of a perforated layer of pressure-sensitive adhesive disposed between a front surface of the perforated transparent, clear vinyl and the perforated protective liner. The perforated protective liner is removably adhered to the layer of pressure-sensitive such that it can be peeled off from the perforated transparent, clear vinyl and the perforated layer of pressure-sensitive adhesive, which permits pressure-sensitive application of the perforated transparent, clear vinyl to a window or other clear substrate,
- b) a four color process image of an "Old Joe" advertisement for Camel cigarettes screenprinted directly to the rear surface of the perforated transparent, clear vinyl, in reverse, followed by a white ink, light-reflective first coating and a second coating of opaque black ink, such that
  - (i) the "Old Joe" advertisement (after removal of the composite liner) appears substantially transparent when viewed from a first direction, and
  - (ii) the "Old Joe" advertisement image is clearly visible when viewed from a second opposite direction
- c) the "Old Joe" advertisement assembly has a non-perforated backing layer in the form of a self-wound, self-adhesive application tape attached to the perforated protective liner. This non-perforated self-adhesive tape is removable from the perforated protective liner. The non-perforated backing layer facilitates handling of the perforated panel assembly when screenprinting the image and the white and black layers.

I recall Ben demonstrating an "Old Joe" prototype to the local sales representative of Glover, Advertising, Inc., Mr Sonny Lacey, who had been responsible for some other Contra Vision business and who represented Glover Advertising, Inc. in promoting sales to R J Reynolds in Winston-Salem, North Carolina, and with whom Ben and I were in regular contact in September, 1993, at least once every few days. Ben and I typically demonstrated both Contra Vision® and ImagoImage™ products by removing the protective liner and applying the self-adhesive product to a glass entrance door of our Pineville facility. This is the procedure Ben adopted to demonstrate the "Old Joe" product to Sonny Lacey, immediately following its production in September, 1993. Sonny Lacey took away some "Old Joe" products from that presentation to give a sales presentation to R J Reynolds.

Soon after production of the "Old Joe" advertisement assemblies and during September, 1993, my husband applied one "Old Joe" advertisement to the window of the Circle K convenience store on Nations Ford Road, in Charlotte, North Carolina, and I took photographs of the outside view of the advertisement and inside view through the advertisement that are included in Exhibit F hereto. These were processed and color copied for the purposes of sales promotions, and were distributed to potential customers not later than October 1, 1993.

I also assisted my husband in the marketing and selling of perforated ImagoImage™ assemblies. The notes made on 9/29/93 and 9/30/93, copies of which are in Exhibit P, are in my handwriting on an "AMERICAN PSYCHIATRIC ASSOCIATION" notepad which at that time I kept by my telephone. These notes were entered into our business records.

The first note in Appendix P of 9/29/97 indicates that I spoke with Michael Luckman of ImagoImage, Inc. on that date. I reported to him the work we had undertaken and promised to send to ImagoImage, Inc. the above examples of our ImagoImage™ perforated assemblies, as indicated. I shipped to ImagoImage, Inc. on that day by UPS 2 day delivery "3 Banners (non O/L)" and "1 Joe Camel." The "Banners" referred to white-on-black imaged assemblies and "1 Joe Camel" referred to one of the "Old Joe" Joe Camel assemblies that we had recently printed. These samples were shipped to ImagoImage, Inc., 2785 Mitchell Drive Suite 110, Walnut Creek, CA 944598, as indicated on the notepad.

Mr Luckman and Mr Ross also visited our facility in Pineville, NC in September or October, 1993. I believe that Mr Rodney Shields and Mr Ross were fully aware of our production and selling operations, including the "Old Joe" products having been made, used and placed "on sale" before October 18, 1993.

The second note in Appendix P of 9/29/93 records a telephone conversation that day with Jeff Ward of Tri Vision Media. "1-Joe" and other notes indicate that one "Old Joe" Camel assembly was FedExed to him on 9/29/93.

The third note in Appendix P of 9/29/93 records a telephone conversation that day with Chris Knecht of Shane Co., to whom we dispatched by UPS "2 Banners (no O/L)" that day.

The telephone note of 9/30/93 records a telephone conversation with Diane Wells of MacCarthy and Co. "One Joe Camel mounted polycarbonate" indicates that one of the "Old Joe" Joe Camel



assemblies was mounted onto a sheet of polycarbonate plastic to show how the advertisement would look when applied to a window. It was shipped that Thursday, September 30 "2<sup>nd</sup> Day UPS," as she needed it the following Monday.

In 1994, Visual Technologies, Inc. received a very sizable order to produce an "Old Joe" perforated self-adhesive assembly for a full-scale advertising program. This construction was the same as for the products printed in September 1993, except that the non-perforated backing layer was a heat laminated clear, translucent plastic film, instead of the self-adhesive self-wound transfer tape. Evidence of this order is included in Exhibit H.

10. Exhibit E contains three letters dated October 1, 1993 from Clear Choice Marketing, Inc. The letter to Coca-Cola Fountain enclosed a copy of the "Raiders" assembly described above. This letter also enclosed an "Old Joe" advertisement assembly mounted on a thin clear plastic sheet material by Visual Technologies, Inc., to show how the advertisement assembly would appear when adhered to a window. Another mounted "Old Joe" assembly was enclosed with the letter of October 1, 1993, to the Georgia Lottery Commission. The letter of October 1, 1993, to the Earl Polmer Brown Company enclosed color copies of my outside and inside photographs of the "Old Joe" assembly installed at the Circle K convenience store, described above and illustrated in Exhibit F hereto. These three letters of October 1, 1993, and their enclosures were mailed by overnight courier. Hereagain, the products were produced on a complimentary basis without charge and without an invoice. No confidentiality obligation was required or imposed and no other stipulations or conditions were placed on the addressees as to the use, display or distribution of the samples.

In September and early October of 1993, Visual Technologies, Inc. also manufactured a perforated clear static cling material comprising:

- (i) a perforated clear static cling vinyl
- (ii) a perforated protective release liner, being a 90lb silicone coated paper
- (iii) a non-perforated backing layer removably adhered to the perforated release liner.

A design was typically screenprinted in reverse onto the perforated clear static cling vinyl, followed by screenprinted white then black layers. See the Visual Technologies, Inc. purchase order to FLEXcon, Inc. dated September 15, for "CLEAR STATIC VINYL" to be shipped to the perforator, Arcor, by September 17, 1993. See also the production calendar entry for September 29, 1993 in Exhibit C. "STATIC CLING PERFED - RUN SF 49<sup>ERS</sup>" referred to printing of a San Francisco 49<sup>ERS</sup> image on the above type of static cling perforated assembly. This product was also placed in public use and was on sale before October 18, 1993.

11. Since commencing manufacture of such perforated materials in August 1993, my Visual Technologies, Inc. company has manufactured hundreds of thousands of such panels, typically for advertisements for application to retail windows. Not less than 40 thousand of such panels were manufactured by my company, Visual Technologies, Inc. before October 18, 1994. Over 90% of panels manufactured before October 18, 1994 and since were of the construction I suggested at the meetings of August 14 and 15 attended by Mr Ross, Mr Shields and Mr Luckman, being an assembly comprising:

- (a) a perforated self-adhesive assembly comprising:-

- (i) a perforated clear transparent vinyl facestock
- (ii) a perforated clear pressure-sensitive adhesive layer
- (iii) a perforated protective liner removable from the adhesive, and
- (b) a non-perforated backing layer removably adhered to the perforated protective liner in the form of a self-wound tape, and
- (c) an image printed in reverse on this base material, followed by white and black layers, all screenprinted.

During the period of August 1993 to October 18, 1994, I sourced both clear and white-on-black unperforated self-adhesive assemblies from FLEXcon, Inc., which I then had perforated, initially by Arcor and then by Southern Prestige, Inc. of Statesville, North Carolina. See the purchase order of October 5, 1993, to FLEXcon, Inc. in Exhibit A requesting that "BV/WV 800/90#" material be shipped to Southern Prestige. "BV/WV800" means black vinyl laminated to white vinyl of overall thickness 8 mil and "90#" means a 90lb paper release liner. The purchase order of October 7, 1993, to FLEXcon, Inc. in Exhibit A requesting that "800 NTC/WV/BV V-58 to be shipped to Southern Prestige was for an 8 mil thick, non-topcoated, white vinyl laminated to black vinyl with a FLEXcon V-58 pressure-sensitive adhesive. The material perforated by Arcor to be screenprinted had a non-perforated pressure-sensitive adhesive self-wound tape applied by Piedmont Plastics, Inc. as the non-perforated backing layer. This self-wound tape was used for the "Old Joe" assemblies referred to in item 9 and was removably adhered to the perforated liner. The material perforated by Southern Prestige, Inc. to be screenprinted typically had a non-perforated clear plastic film material heat laminated to the perforated protective liner by Southern Prestige, Inc.; this non-perforated material being easily removed from the perforated liner. This latter material was that

used for the first Gatorade order in January 1994 (see Exhibit G) and the "Old Joe" order that was supplied and invoiced to Clear Choice Marketing, Inc. in 1994 (see Exhibit H). I have provided one of the Gatorade advertisement assemblies to Mr Jack Barufka of Pillsbury Madison & Sutro. This comprises:

a one-way vision display panel assembly specially constructed for application on to a window of a building or vehicle comprising:

- a) a perforated panel assembly including:
  - (i) a perforated transparent, clear vinyl flexible plastic sheet material having two principle surfaces which may be regarded as a front surface and a rear surface
  - (ii) a perforated protective liner attached to:
  - (iii) a pressure-sensitive adhering means in the form of a perforated layer of pressure-sensitive adhesive disposed between a front surface of the perforated transparent, clear vinyl and the perforated protective liner. The perforated protective liner is removably adhered to the layer of pressure-sensitive such that it can be peeled off from the perforated transparent, clear vinyl and the perforated layer of pressure-sensitive adhesive, which permits pressure-sensitive application of the perforated transparent, clear vinyl to a window or other clear substrate,
- b) a four color process image of a "Gatorade" advertisement for Camel cigarettes screenprinted directly to the rear surface of the perforated transparent, clear vinyl, in reverse, followed by a white ink, light-reflective first coating and a second coating of opaque black ink, such that

- (i) the "Gatorade" advertisement (after removal of the composite liner) appears substantially transparent when viewed from a first direction, and
- (ii) the "Gatorade" advertisement image is clearly visible when viewed from a second opposite direction
- c) the "Gatorade" advertisement assembly has a non-perforated backing layer in the form of a translucent plastic film heat laminated to the perforated protective liner. This non-perforated plastic film is removable from the perforated protective liner. The non-perforated backing layer facilitates handling of the perforated panel assembly when screenprinting the image and the white and black layers.

Visual Technologies, Inc. also manufactured many white-on-black perforated materials for external application to windows from August 1993 to October 18, 1994.

12. During the spring of 1997, I learned that United States Patent No. 5,609,938, had been granted by the US Patent and Trademark Office to a company known as Creative Minds Foundation, Inc., which I believe is owned by Mr Gregory E Ross (the same Gregory Ross I previously met as a representative of ImagoImage, Inc.). I subsequently obtained a copy of the patent and learned that the patent shows Rodney Shields (the same Rodney Shields I previously met as a representative of ImagoImage, Inc.) as the sole inventor. I have reviewed the patent and understand that, among other things, the patent describes and claims that Mr Shields was the inventor of a "one-way vision display panel assembly" substantially according to my concepts described above which were disclosed to Mr Shields during the meeting with him, Mr Ross and Mr Luckman in August, 1993. During that meeting, neither Mr Shields, Mr Ross nor Mr

Luckman stated or even remotely indicated that any of them had theretofore ever conceived of utilizing a clear perforated self-adhesive vinyl assembly or applying a self-wound , self-adhesive imperforate tape to one side of a perforated assembly and printing the other side thereof. To the contrary, these concepts were entirely my origination. Furthermore, at no time since the August 1993 meeting has Mr Shields, Mr Ross or Mr Luckman ever indicated to me or my husband that any of them claimed inventorship of these concepts or that any of them denied or disputed that I am the sole inventor of these concepts.

I subsequently became aware of the reissue application Serial No. 09/267,025 filed March 11, 1999, and I have seen the claims being sought in reissue. While the term "pressure-sensitive" is sought to be removed from claim 1 (Amended) I believe this claim still claims the construction I presented to Messrs Shields, Ross and Luckman in August, 1993. In addition, I believe the assembly shown to me in August 1993 by Messrs Shields and Ross and stated by them to have been used for bus window advertising was as claimed in proposed claim 15, comprising a perforated assembly including:

- (i) a perforated white vinyl film membrane
- (ii) a light-reflective image applied by the 3M Scotchprint™ process to the front surface
- (iii) a perforated light-absorbing gray pressure-sensitive adhesive layer applied to the rear surface of the white vinyl film
- (iv) a perforated protective layer removably adhered to the gray pressure-sensitive adhesive. Removal of the perforated protective liner allowed the application of the remainder of the assembly to the outside of a bus window. Through viewing

is permitted from the inside of the window and the image is clearly visible where viewed from the outside of the window.

I later became aware that US Patent No. 5,525,177 (hereinafter referred to as the '177 patent) had been granted by the US Patent and Trademark office to Gregory E Ross, assigned to Clear Focus Imaging, Inc., applied for on September 1, 1994. I have seen the claims of this patent. During the August 1993 meeting, Mr Ross advised me that 3M Scotchprint™ electrostatic transfer imaging had been used in bus window advertising prior to our meeting, using the type of assembly described in item 4 herein. These bus advertising assemblies had a construction as claimed in proposed claim 15 of the '938 patent. Claim 10 of the '177 patent claims "an interior mount one-way vision display panel of the type which is constructed as a perforated transparent membrane," an idea I introduced to Mr Ross in August 1993.

I subsequently became aware that US Patent No. 5,773,110 (hereinafter referred to as the '110 patent) had been granted to Rodney Shields and assigned to Creative Minds Foundation, applied for on February 28, 1994. Claim 13 claims a perforated one-way vision panel assembly comprising "a solid backing layer removably attached to a protective liner side of the perforated assembly, wherein:

said solid backing layer effective to catch excess paint which travels through said plurality of through-holes as one or more layers of paint are applied to said first side of said panel layer;"

Claim 13 claims the same invention I presented to Mr Shields in August 1993, except that the image must be painted. Dependent claim 16 claims the embodiment of my invention with a transparent material, except that the image must be painted.

13. Before the August 1993 meeting with ImagoImage, Inc., I signed a Confidential Non-disclosure Agreement, on July 26, 1993, on behalf of Visual Technologies, Inc., attached as Exhibit K. However, none of the particular information given by Messrs Ross, Shields or Luckman at that meeting was identified as being confidential then or at any later date. Conversely, they wished us to promote the products, methods and prior experience of ImagoImage, Inc. discussed at that meeting to the public.

No detailed process for manufacturing one-way viewing panels were disclosed. I believe the basic concept of a one-way vision perforated self-adhesive assembly was disclosed in US Patent No. 4,673,609 (Hill) under which Visual Technologies, Inc. were already licensed. Visual Technologies, Inc. had been previously responsible for providing unperforated one-way Contra Vision graphics panels according to the above patent with both paint imaging and 3M Scotchprint™ electrostatic transfer imaging before the meeting in August, 1993. See Exhibit N, which includes a copy of the "San Francisco Examiner" dated March 5, 1993, illustrating a Crystal Pepsi advertisement on a bus which used one-way window film provided by Visual Technologies, Inc. which was imaged by the 3M Scotchprint™ electrostatic transfer imaging company, Supergraphics, Inc. Also included in Exhibit N are articles from "The Christian Science Monitor" of August 17 and the "Press-Telegram, Local News" of August 11, both provided by Messrs Shields and Ross, which illustrate a "Robocop" bus advertisement carrying



over the windows on ImagoImage™ perforated self-adhesive assembly and imaged by the 3M Scotchprint™ electrostatic transfer imaging process by Supergraphics, Inc., according to the information provided to us by Messrs Shields and Ross. I believe no confidential information was ever given to me or to my husband by ImagoImage, Inc., and ImagoImage, Inc. encouraged us to make public the information that was provided by them, in order to sell the ImagoImage™ products.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

This the \_\_\_\_\_ day of November, 1999.

Linda M. Icard

Linda M. Icard

STATE OF NORTH CAROLINE )

COUNTY OF MECKLENBURG )

Subscribed to and sworn before me, this the 11<sup>th</sup> day of November 1999

Sharon M. Hillis

Notary Public

My Commission Expires: My Commission Expires January 31, 2001